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March 20, 1985

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Re: United States of America, et al. vs.  
Reilly Tar & Chemical Corporation, et al.  
Our File No. 3857-011  
Civil File No. 4-80-469

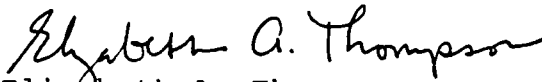
All Counsel of Record  
March 20, 1985  
Page Two

Dear Counsel:

Enclosed and served upon you by United States Mail please find the following documents:

1. Plaintiff-Intervenor City of St. Louis Park's Notice of Motion and Motion for Leave to File Second Amended Complaint;
2. Plaintiff-Intervenor City of St. Louis Park's Memorandum in Support of Motion for Leave to File Second Amended Complaint; and
3. Proposed Order.

Very truly yours,

  
Elizabeth A. Thompson

EAT/jmp  
Enclosures  
2092w

cc: Mr. James L. Brimeyer  
Wayne G. Popham, Esq.

POPHAM, HAIK, SCHNOBRICH, KAUFMAN & DOTY, LTD.

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March 20, 1985

The Honorable Paul A. Magnuson  
United States District Court  
316 North Robert Street  
St. Paul, MN 55101

Re: United States, et al. v.  
Reilly Tar & Chemical Corporation, et al.  
Civil File No. 4-80-469  
Our File No. 3857-011

Dear Judge Magnuson:

Enclosed for your reference please find a copy of the City of St. Louis Park's (City) notice of motion, motion and memorandum in support of motion for leave to file its second amended complaint in intervention to include a claim based on the provisions of the Minnesota Environmental Response and Liability Act, Minnesota Statutes, Section 115B.01, et seq. (MERLA). On March 20, 1985, the City filed its motion with the Court and served all counsel of record.

On Friday, March 22, 1985, the Court will hear the State's motion for leave to amend its complaint to include an additional count, also based on MERLA.

To expeditiously and economically address the City's intention to amend its complaint to include a MERLA claim, on

The Honorable Paul A. Magnuson  
March 20, 1985  
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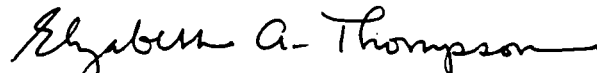
March 18, 1985, I inquired of counsel for Reilly whether they would be amenable to the City asking the Court to rule on the City's motion at the March 22 hearing in addition to ruling on the other motions before the Court.

Reilly's counsel responded that although they would not permit the City to ask the Court to rule on the City's motion, they would consider the applicability of the Court's ruling on the State's motion in determining whether to stipulate to the City's filing of its amended complaint or to oppose such an amendment.

Therefore, to the extent that the Court's ruling on the State's motion would apply equally to the City amending its complaint to include an identical claim under MERLA, Reilly's counsel has agreed that the City would not need to bring a duplicative motion but rather would agree to the City's amendment by stipulation.

If Reilly's counsel stipulates to the City amending its complaint, then it will not be necessary for the Court to hear the City's motion which is scheduled for March 29, 1985. If a motion is necessary, however, counsel for Reilly has agreed not to oppose such a motion on a timeliness basis beyond that which it would be permitted to assert at this time.

Very truly yours,

  
Elizabeth A. Thompson

EAT/jmp  
Enclosure  
2091w

cc: The Honorable Crane Winton  
Mr. James L. Brimeyer  
Wayne G. Popham, Esq.  
All Counsel of Record

UNITED STATES DISTRICT COURT

DISTRICT OF MINNESOTA

FOURTH DIVISION

United States of America, )

Plaintiff, )

and )

State of Minnesota, by its )

Attorney General Warren )

Spannaus, its Department of )

Health, and its Pollution )

Control Agency, )

Plaintiff-Intervenor, )

Reilly Tar & Chemical Corp.; )

Housing and Redevelopment )

Authority of St. Louis Park; )

Oak Park Village Associates; )

Rustic Oaks Condominium, Inc.; )

and Philips Investment Co., )

Defendants, )

and )

City of St. Louis Park, )

Plaintiff-Intervenor, )

vs. )

Reilly Tar & Chemical Corp., )

Defendant, )

and )

City of Hopkins, )

Plaintiff-Intervenor, )

vs. )

Reilly Tar & Chemical Corp., )

Defendant. )

Civ. File No. 4-80-469

PLAINTIFF-INTERVENOR  
CITY OF ST. LOUIS PARK'S  
NOTICE OF MOTION AND  
MOTION FOR LEAVE TO FILE  
SECOND AMENDED COMPLAINT

TO: Stephen Shakman, Dennis Coyne, Lisa Tiegel, Minnesota Pollution Control Agency, 1935 West County Road B2, Roseville, Minnesota 55113, attorneys for State of Minnesota; and

Edward J. Schwartzbauer, Dorsey & Whitney, 2200 First Bank Place East, Minneapolis, Minnesota 55402, attorneys for Reilly Tar; and

Francis X. Hermann, Assistant U.S. Attorney, 234 U.S. Courthouse, 110 South Fourth Street, Minneapolis, Minnesota 55401, attorneys for United States; and

Gary Hansen, Stopelstad, Brown & Smith, 445 Minnesota Street, St. Paul, Minnesota 55401, attorneys for City of Hopkins; and

Robert Leininger, Enforcement, USEPA, Region V, 230 South Dearborn Street, Chicago, Illinois 60606; and

Lawrence R. Waldoch, Lindquist & Vennum, 4200 IDS Center, Minneapolis, Minnesota 55402, attorneys for Oak Park Village; and

James T. Swenson, Mackall, Crounse & Moore, 1600 TCF Tower, Minneapolis, Minnesota 55402, attorneys for TCF Service Corp.; and

Thomas W. Wexler, Peterson, Engberg & Peterson, 700 Title Insurance Building, Minneapolis, Minnesota 55401, attorneys for Phillips Investment; and

David Hird, Environmental Enforcement Sec., Land & Natural Resources Div., U.S. Department of Justice, 10th & Pennsylvania Avenue, N.E., Washington, D.C. 20530, attorneys for United States.

PLEASE TAKE NOTICE that on the 29th day of March, 1985, at 9:00 a.m., or as soon thereafter as counsel may be heard, before the Honorable Paul A. Magnuson, United States District Judge, in Court Room No. 3 of the United States District Courthouse, 316 North Robert Street, St. Paul, Minnesota, the City of St. Louis Park will move the Court for an Order granting it leave to file its Second Amended Complaint in Intervention.

This Motion is based upon Federal Rule of Civil Procedure 15. The Motion seeks the Court's permission to add an additional claim based on the provisions of the Minnesota Environmental Response and Liability Act, Minn. Stat. Section 115B.01, et seq., which became effective on July 1, 1983.

Dated: March 20, 1985.

POPHAM, HAIK, SCHNOBRICH, KAUFMAN & DOTY,  
Ltd.

By Elizabeth A. Thompson  
Wayne G. Popham, Reg. No. 87579  
Elizabeth A. Thompson, Reg. No. 15250X  
Thomas C. Mielenhausen, Reg. No. 160325  
4344 IDS Center 333-4800  
Minneapolis, Minnesota 55402

Attorneys for Plaintiff-Intervenor  
City of St. Louis Park

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